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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,112

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Hiroya Kondou

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52044

7590

10/21/2008

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EXAMINER

CHEN, TIANJIE

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,112	<b>Applicant(s)</b> KONDOU ET AL.	
	<b>Examiner</b> Tianjie Chen	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2,4-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Non-Final Rejection***

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Election/Restrictions***

2. Applicant's election without traverse of claims 1-5 in the reply filed on 09/12/2008 is acknowledged.

Since generic claim 4 is found objectionable, the dependent claims 6-12 rejoin for consideration. Finally claims 1-12 are under consideration.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Ikebe et al (US 4,991,048).

Claims 1 and 3, Ikebe et al shows a shutter member used in a cartridge having a case member/ a cartridge including a case member and a shutter member, the case member 12 including a medium storage section for storing an information medium 10 having an information layer and a window section 18 configured to allow at least a head to be inserted, the head being used to perform a recording operation or a reproduction operation for the information layer, the shutter member 20 (Column 4, line 4) including: a base member 26 operable to slide along a sidewall of the case member (Fig. 4; column 4, lines 19-22);

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and a plate member 22 or 24 (Fig. 4) engaged with the base member (Column 4, lines 23-39), which is operable to open/close the window section of the case member in accordance with a sliding motion of the base member, wherein the base member and the plate member are engaged with each other such that the plate member can be removed from the base member.

*Allowable Subject Matter*

4. Claims 2 and 4-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

- With regard to claims 2 and 4; as the closest reference of record, Ikebe et al (US 4,991,048) discloses a shutter member used in a cartridge having a case member/ a cartridge including a case member and a shutter member, the case member 12 including a medium storage section for storing an information medium 10 having an information layer and a window section 18 configured to allow at least a head to be inserted, the head being used to perform a recording operation or a reproduction operation for the information layer, the shutter member 20 (Column 4, line 4) including: a base member 26 operable to slide along a sidewall of the case member (Fig. 4; column 4, lines 19-22); and a plate member 22 or 24 (Fig. 4) engaged with the base member (Column 4, lines 23-39), which is operable to open/close the window section of the case member in accordance with a sliding motion of the base member, wherein the base member and the plate member are engaged with each other such that the plate member can be removed from the base member; **but fails to show** that the base member includes beating sections, the plate member includes rotary shafts, and the base member and the plate member are engaged

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with each other by inserting the rotary shafts of the plate member into the bearing sections of the base member such that the plate member can be rotated with respect to the base member.

- Applicant asserts; the “purpose of the present invention is to provide a cartridge and a shutter member used in the cartridge which has high parallelism between the plate member and the sliding surface of the case member and which does not provide any resistance in opening/closing the window section on the sliding surface.” ([0051]).

### *Conclusion*

6. The prior art made of record in PTO-892 form and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tianjie Chen whose telephone number is 571-272-7570. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tianjie Chen/  
Primary Examiner, Art Unit 2627